stipulation should not be conclusive, and only expenses actually and reasonably incurred should be allowed. *Campbell* v. *Worman*, 58 Minn. 561. As five *per cent.* was here conceded to be a reasonable charge and as nothing was shown to impeach the good faith of the stipulation, the decision declaring it void seems erroneous and unjust.

REVIEWS.

THE CIVIL LAW IN SPAIN AND SPANISH AMERICA. By Clifford Stevens Walton. Washington. 1900. pp. xix, 672.

This is a timely and useful book. In the first part is given a short but sufficient statement of the Spanish Codes which preceded the present law; the second part is a translation of the Spanish Civil Code of 1838, with parallel references to the South and Central American Codes; the third part is a rather meagre description of the other Spanish Codes, a translation of the Mexican Constitution, and a collection of proclamations affecting the present law of Cuba and Puerto Rico. The value of the book lies in the translation of the Civil Code, which was extended to the colonies, and is therefore the basis of the law in our newest territory. The translation is unfortunately not always commendable: hispanicisms remain to obscure the sense, and *per contra* certain terms of our own law are misapplied to unlike Spanish ideas. On the whole, however, we get from this book an adequate knowledge of part of the Spanish law. The Civil Code, as it contains the Law of Persons, the Law of Property, and the Law of Obligations, is the most interesting and perhaps the most useful of all the Codes. A translation of the Commercial Code also is sadly needed; but the Penal Code and the Codes of Procedure we can spare. It is likely that the Penal Code in Puerto Rico and the Philippines will disappear as it did in Louisiana and Texas, to be replaced bodily by the Common Law.

One of the most interesting features, to us, of the Spanish and other European laws is the doctrine of the civil status (*état civil*, *statutum personale*). The conception of a natural person whose power of legal action is a gift, not of God, but of his sovereign through the law, is foreign to the English and American mind; but it is the very foundation of the modern Civil Law. Great pains are therefore taken in this Code to secure publicity of knowledge as to civil status; a man's marriage, his sanity, his age, his legitimacy (by nature or by law), and even his presence ready to do business, may be discovered by consulting the proper "registry of civil status," just as his title to real estate may be examined at the registry of property. As is natural, this conception of legal power leads to the doctrine that capacity to act depends upon the law of a man's country.

Marital property also presents to an American lawyer a novel and interesting condition; although it is the foundation of the "community" system which prevails in the larger part of our trans-Mississippi country. As this system is worked out in Spain (and in substantially the same way in the other civil-law countries), the spouses become partners, sharing equally in the earnings and the profits of their common life. As capital the wife brings in her *dot*, the husband such portion of his property as may be agreed upon; the balance of the wife's property (her *paraphcrna*) remains her separate estate. All property falling to the

spouses during the marriage is treated as profits belonging to the community, unless it is a gift to the separate use of one partner. The husband administers the property so long as the community lasts, unless he has been legally declared an absentee or put under interdiction. The community property is subject to all debts of the spouses during marriage (with unimportant exceptions), but not to preëxisting debts. In some cases the court has power to decree a "separation of goods," a dissolution of the marital copartnership in the property, whereupon each spouse holds his own share of the property in severalty.

The method of testate or intestate succession and of administering estates is also worth study. A man's wife and children (including recognized illegitimate children) have certain rights in his property (their *legitim*) of which he cannot deprive them by a will; and the sum of these rights ties up a very considerable part of his estate. The balance may be disposed by will. One object of the law is to secure the validity of a will both against forgers and against undue influence. Wills are of three kinds. The *holographic* will, written entirely by the hand of the testator, must be written on stamped and dated official paper. The open will must be attested by the testator before a notary, and its contents made public. The secret will must be sealed by the testator within a cover, attested before a notary, and left sealed with the notary. In the case of a testator who might be suspected of insanity, provision is made for proof of his sanity at the time of the attestation of his will. Some of these provisions might be pondered by our legislators. The administration of an estate and the guardianship of an infant are, on the other hand, less carefully looked after by the Spanish courts than by ours; the guardian is kept to his duty, not by the court, but by a *protutor*, appointed from another branch of the family, with the duty of overseeing the guardian's accounts. These officers are nominated by the "family council," a semi-official body with which we are partly familiar in literature.

The proportionate importance of different parts of the law may strike us as singular. To the law of torts, for instance ("obligations arising from fault or negligence"), nine sections are devoted out of about two thousand; the same space devoted to the law of application of payments, and about a quarter of the space devoted to prescription. It is to be said, however, that a large part of our law of torts is dealt with in the Penal Code. J. H. B.

A Treatise on the Law of Evidence. By Simon Greenleaf. Volumes II. and III. Sixteenth Edition. By Edward Avery Harriman. Boston: Little, Brown & Co. 1899. pp. xcv, 638; xliii, 542.

Volume I. of Greenleaf on Evidence expounds and discusses the law of evidence; volumes II. and III. are cyclopædias of reference as to what evidence is necessary in the trial of various actions at law. The sixteenth edition of volume I., by Professor Wigmore, succeeded admirably, it seems, in rejuvenating the learning of Greenleaf and in revising and clarifying the principles of evidence. The work of Professor Harriman, in editing the sixteenth edition of volumes II. and III., was merely to bring those cyclopædias of reference up to date by the addition of the recent authorities and the noting of recent alterations of the law — the usual work of an editor — less ambitious and less laborious than the work on volume I., but a necessary complement to it. As far as one may judge of a cyclopædia of law cases without the practical use of it, the work